

REMARKS

Claims 1-54 were pending. Claims 1-54 were rejected. Claims 1-48 have been canceled, while claims 49-51 have been amended by the above amendment. Claims 52-54 are unchanged. Claims 55-99 have been added. Therefore, claims 49-99 are currently pending. The applicant requests further examination and reconsideration in view of the amendments made above and the remarks set forth below.

Objection under 37 C.F.R. § 1.75(d)(1)

Claim 5 was objected to because the examiner believed that the specification did not provide proper antecedent basis for the claimed subject matter. The applicant has canceled claim 5.

Rejections under 35 U.S.C. § 102(b):

The examiner rejected claims 1-5, 16-22, 25-29, and 40-46 in view of U.S. Patent No. 4,469,226 issued to Matney (hereinafter referred to as "Matney") under 35 U.S.C. § 102(b). Claims 1-48 have been canceled. Therefore, the above rejections in view of Matney are moot.

The examiner has also rejected claims 1-9, 16-19, 21-22, 25-35, 40-43, 45-46, and 49 in view of U.S. Patent No. 4,360,106 issued to Irvine (hereinafter referred to as "Irvine") under 35 U.S.C. § 102(b). Claims 1-48 have been canceled; the rejection of claim 49 in view of Irvine is addressed below.

Claim 49 as currently amended recites a display apparatus comprising a product card configured to receive printing, a case having a closable flap and a fastener. The fastener has a first portion and a second portion. The first portion is coupled to a stationary portion of the case. The second portion of the fastener has a fastener anchor that couples the second portion of the fastener to the product card and to the closable flap.

Claim 49 has been amended to replace the term "snap" with the term "fastener." Support for this amendment may be found at least on page 2, line 6 of the applicant's specification. Claim 49 has also been amended to clarify that the fastener includes a fastener anchor that couples the second portion of the fastener to the product card and to the closable flap. Support for this amendment can be found at least on page 5, lines 7-10 of the applicant's specification.

Irvine discloses a display mountable container having a recloseable feature. Irvine, Title. The container is made from a cardboard blank that is folded and glued together to form a box with a rear panel member that extends above the box. See Irvine, column 3, lines 42-52, figures 1 and 2. The rear panel member is folded over and glued to a rear wall member of the cardboard blank. Irvine, column 3, lines 42-52. A tab is defined in the rear panel member by a score line. Irvine, column 3, lines 11-20. A tongue portion is defined by a slit in the rear wall member. Irvine, column 3, lines 26-29. The box is opened by tearing the rear panel member along the score line, removing the portion of the rear panel member which extends above the box and leaving the tab portion of the rear wall member. Irvine, column 4, lines 32-39. To reclose the box, the tab is inserted through the slit. Irvine, column 4, lines 49-56.

In contrast to the applicant's claim 49, Irvine does not disclose a fastener having a first portion coupled to a stationary portion of the case and a second portion that includes a fastener anchor that couples the second portion of the fastener to the product card and to the closable flap. The difference is that Irvine discloses that the case, panel and tab for closing the case are all formed from a single piece of cardboard, whereas, claim 49 requires a product card, a case, and a fastener that includes a fastener anchor. The fastener anchor has the function of coupling the second portion of the fastener to the product card and to the closable flap. To anticipate the claim, Irvine must teach each and every element of the claim. Claim 49 is allowable at least because Irvine does not disclose any element that corresponds to the fastener anchor of claim 49. Because Irvine does not suggest or disclose all the recited features, claim 49 is allowable over Irvine.

Rejections under 35 U.S.C. § 103(a):

The examiner rejected claims 23, 24, 47 and 48 under 35 U.S.C. § 103(a) as being unpatentable over Matney. Claims 1-48 have been canceled. Therefore, the above rejections in view of Matney are moot.

The examiner also rejected claims 6, 7, 9, 10, 30, 31, 33, and 34 under 35 U.S.C. § 103(a) as being unpatentable over Irvine in view of U.S. Patent No. 6,047,883 issued to Calvert et al. (hereinafter referred to as "Calvert"). Claims 1-48 have been canceled. Therefore, the above rejections in view of Irvine and Calvert are moot.

In addition, the examiner rejected claims 15 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Irvine in view of Fireman in further view of U.S. Patent No. 6,003,663 issued to Newcomer (hereinafter referred to as "Newcomer"). Claims 1-48 have been canceled. Therefore, the above rejections in view of Irvine, Fireman, and Newcomer are moot.

The examiner also rejected claims 11-14, 20-21, 35-38, 44, 45, and 50-53 under 35 U.S.C. § 103(a) as being unpatentable over Irvine in view of U.S. Patent No. 4,733,775 issued to Fireman (hereinafter referred to as "Fireman"). Claims 1-48 have been canceled; the rejection of claims 50-53 in view of Irvine and Fireman is addressed below.

The term transparent has been deleted from claims 50 and 51 to clarify the scope of the invention. Claims 50-53 are dependent upon claim 49. As described above, claim 49 recites features not suggested or disclosed in Irvine. Fireman does not suggest or disclose these features either.

More particularly, Fireman discloses transparent packaging for swim goggles. Fireman, Title. The exterior of the package is formed from a transparent plastic blank having several panels separated by fold lines which are folded and glued together to form a trapezoidal box. Fireman, column 2, line 51 to column 3, line 30, and Figures 1-5. Thus, similarly to Irvine, the box of Fireman is composed of a single piece of material. Fireman does not suggest or disclose a fastener having a first portion coupled to a stationary portion of the case and a second portion that includes a fastener anchor that couples the second portion of the fastener to the product card and to the closable flap.

Because Irvine and Fireman, taken singly or in combination, do not suggest or disclose all of the features of claim 49, this claim is allowable over the references. Claims 50-53 are allowable over the references at least because they are dependent from claim 49.

New Claims 55-99:

New claims 55-62 are dependent from allowable base claim 49. Claim 55 recites that the fastener comprises a snap. This limitation is similar to that of canceled claim 9. Claim 56 recites that an area of the product card defined by a perforation is coupled to the fastener anchor, and the area defined by the perforation is removed from the product card when the case is removed from the product card. This limitation is similar to the limitations of canceled claims 2, 4 and 6. Claim 57 recites that an area of the product card that surrounds the fastener anchor is removed

when the product card is removed from the case. Claim 58 recites that the area of the product card removed when the product card is removed from the case is defined by a perforation that surrounds the fastener anchor. Support for the features of claims 57 and 58 can be found at least in Figures 3A and 3B of the applicant's specification and the associated written description. Claim 59 recites transparent film. This limitation is similar to that of canceled claim 20. Claim 60 recites that one or more material properties of the flap are different from material properties of other portions of the case. Support for this feature can be found at least on page 4, lines 25-27 of the applicant's specification. Claim 61 recites that a portion of the product card overlaps a portion of the closable flap when the closable flap is in an open position. Claim 62 recites that the product card remains coupled to the closable flap when the closable flap is in an open position. Support for the features of claims 61 and 62 can found at least in Figure 1 of the applicant's specification. Claims 55-62 are allowable at least because they are dependent from allowable base claim 49.

New claim 63 is an independent claim which recites a display apparatus comprising a flexible film with a flap and a rigid frame. The flexible film is wrapped around and secured to the rigid frame to form a closable case. The flexible film forms sides of the case. The rigid frame forms end portions of the case and the flap is closable over an opening of the case.

Support for the features recited in new claim 63 can be found at least on page 4, lines 4-19 of the applicant's specification. In addition, new claim 63 recites limitations similar to that of canceled claims 11-13. The examiner rejected canceled claims 11-13 under 35 U.S.C. § 103(a) as being unpatentable over Irvine in view of Fireman.

Irvine describes a display apparatus having a recloseable feature as described above. As is also explained above, Fireman describes transparent packaging for swim goggles. Fireman, Title. The exterior of the package is formed from a transparent plastic blank. Fireman, column 2, lines 51-62. The transparent plastic blank is made up of several panels which are separated from each other by fold lines. Fireman, column 2, line 62 to column 3, line 30. The transparent blank is folded and glued together to form a trapezoidal box that includes side panels. See Fireman, figures 1-5. The box includes tabs with shoulders which engage in cuts to lock the side panels in place over the tabs. Fireman, column 3, lines 19-21. A support member which is less rigid than the package is inserted snugly into the package. Fireman, column 3, lines 38-41. The goggles are tied to the support member. Fireman, column 3, line 64-65. A foam plastic backing

member is contained within the support member. Fireman, column 3, line 67 to column 4, line 3. Therefore, in order to remove the goggles, a consumer must open the side panels and slide out the support member and then remove the goggles from the support member. The package is constructed in such a manner as to prevent the easy and fast removal of the goggles so as to prevent theft. Fireman, abstract, lines 12-15. Accordingly, the support member is designed to make it difficult to remove the goggles from the display package. Fireman, column 4, lines 21-26.

In rejecting claim 11, the examiner stated that Irvine does not disclose a transparent flexible film and a rigid frame. The examiner asserted that Fireman discloses these features and that it would have been obvious to modify the display apparatus of Irvine with the structure of an outer transparent flexible film and an inner rigid frame so that the structure of Irvine could display eyeglasses in a manner where the contents would be visible.

The applicant respectfully disagrees with this reasoning. There would not have been motivation to combine the packaging described by Fireman with the display apparatus described by Irvine. This is because the packaging described by Fireman is directed towards a package whose contents are purposely difficult to remove in order to prevent theft, whereas, the display apparatus described by Irvine is easily opened and reused. These two purposes are incompatible with each other. Therefore, one of ordinary skill in the art would not be motivated to combine Fireman with Irvine. Therefore, claim 63 is allowable over the references.

Further, in rejecting claim 13, the examiner asserted that Fireman discloses a case with a rigid frame which comprises end portions of the case, as the rigid frame has two lateral side edges (the end portions), and the rigid frame extends from one end of the case to the other end. The applicant respectfully disagrees with this characterization of the apparatus described by Fireman. The foam plastic backing member of Fireman is the only structure described as imparting rigidity to the packaging described by Fireman. Fireman, column 4, lines 2-3. This backing member does not form end portions of the packaging. Instead, the backing member is completely enclosed by the exterior of the packaging. See Fireman figures 1-11. Therefore, Fireman does not suggest or disclose a display apparatus including a flexible film forming sides of a case and a rigid frame forming end portions of the case, as required by the applicant's claim 63. New claim 63 is allowable at least because neither Fireman nor Irvine, taken separately or in

combination, disclose all of the features recited in new claim 63. This is an additional reason why claim 63 is allowable.

New claims 64-74 are dependent from allowable base claim 63. Claim 64 recites a spanning member for holding the end portions in fixed positions with respect to one another. This limitation is similar to that of canceled claim 14. Claim 65 recites that the rigid frame has a nose piece portion for positioning eyewear within the case. This limitation is similar to that of canceled claim 15. Claim 66 recites that the film is secured to the frame at four points. Support for this feature can be found at least in figures 1, 2A and 2B of the applicant's specification. Claim 67 recites that the film is secured to the frame with pins. Support for this feature can be found at least on page 4, lines 19-23 of the applicant's specification. Claim 68 recites a fastener for removably attaching the flap of the flexible film over the opening of the case. The fastener includes a first portion coupled to a section of the film other than the flap. The fastener also includes a second portion coupled to the flap. Support for these features can be found at least on page 4, lines 28-31 of the applicant's specification. Claim 68 recites a product card that is removably coupled to the second portion of the fastener. Support for this feature can be found at least on page 5, lines 7-10 of the applicant's specification. Claim 70 recites that an area of the product card defined by a perforation is coupled to the second portion of the fastener such that the area defined by the perforation is removed from the product card when the product card is removed from the case. This limitation is similar to the limitations of canceled claims 2, 4 and 6. Claim 71 recites that an area of the product card that surrounds the second portion of the fastener anchor is removed when the product card is removed from the case. Claim 72 recites that the area of the product card removed when the product card is removed from the case is defined by a perforation that surrounds the second portion of the fastener. Support for the features of claims 71 and 72 can be found at least in Figures 3A and 3B of the applicant's specification and the associated written description. Claim 73 recites that a portion of the product card overlaps a portion of the flap when the flap is in an open position. Claim 74 recites that the product card remains coupled to the flap when the flap is in an open position. Support for the features of claims 73 and 74 can found at least in Figure 1 of the applicant's specification. Claims 64-74 are allowable at least because they are dependent from allowable base claim 63.

New claim 75 is an independent claim which recites a method of assembling a display apparatus, comprising: assembling a case, the case being closable with a fastener; coupling a

first portion of the fastener to a stationary portion of the case; and coupling a second portion of the fastener to both a closable portion of the case and a removable product card. The steps recited in new claim 75 are substantially similar to those of canceled claims 25, 26 and 31. The examiner rejected claims 25 and 26 in view of Matney under 35 U.S.C. § 102(b). The examiner has also rejected claims 25, 26 and 31 in view of Irvine under 35 U.S.C. § 102(b). The examiner further rejected claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Irvine in view of Calvert.

Matney discloses a blister pack for a face powder compact. Matney, Title. A compact is held within a blister by heat sealing the blister to a panel. Matney, column 2, lines 3-8. The blister permits the compact to be opened to reveal the contents of the compact and to be closed by the compact's latch and clasp. Matney, column 2, lines 12-15. In order for the display described by Matney to operate, the latch must be completely separate from both the blister and the panel. See Matney Figures 1-6. The latch and clasp allow the lid of the compact to be fastened to the compact. Matney does not suggest or disclose coupling any portion of this fastener to a panel, whereas, claim 75 recites coupling a first portion of the fastener to a stationary portion of the case and coupling a second portion of the fastener to both a closable portion of the case and to a removable product card. For at least this reason, claim 75 is allowable over Matney.

As explained above, Irvine discloses a case, panel and tab for closing the case all formed from a single piece of cardboard. Thus, Irvine does not suggest or disclose a step of coupling a second portion of a fastener to both a closable portion of the case and a removable product card, as recited by the applicant's claim 75. For at least this reason claim 75 is allowable over Irvine.

Calvert describes a bagless barrier paperboard container with a tamper evident recloseable feature. Calvert, Title. Examples of recloseable features described by Calvert are button snaps, Velcro, adhesive strips or tin ties. Calvert, column 5, lines 4-9. The recloseable features are attached to the container by hot melt adhesive. Calvert, column 6, lines 25-27. A single surface of the recloseable feature is glued to a single surface of the container. See Calvert, figures 3-8. Thus, Calvert does not suggest or disclose a step of coupling a second portion of a fastener to both a closable portion of the case and a removable product card, as recited by the applicant's claim 75. As explained above, Irvine does not suggest or disclose this feature either.

For at least this reason claim 75 is allowable over Irvine and Calvert, taken singly or in combination.

New claims 76-89 are dependent from an allowable base claim 75. Claim 76 recites that the closable portion of the case includes a flexible flap. This limitation is similar to that of canceled claim 27. Claim 77 recites that the second portion of the fastener is coupled to an area of the product card defined by a perforation, such that the area defined by the perforation is removed from the product card when the case is removed from the product card. These limitations are similar to those of canceled claims 30 and 31. Claim 78 recites that an area of the product card that surrounds the second portion of the fastener anchor is removed when the product card is removed from the case. Claim 79 recites that the area of the product card removed when the product card is removed from the case is defined by a perforation that surrounds the second portion of the fastener. Support for the features of claims 78 and 79 can be found at least in Figures 3A and 3B of the applicant's specification and the associated written description. Claim 80 recites a method wherein the fastener includes a snap. This limitation is similar to the limitation recited in canceled claim 33. Claim 81 recites that the case includes a flexible film from which a closable flap is formed and a rigid frame for inhibiting collapse of the case. This limitation is similar to that of canceled claim 35. Claim 82 recites that assembling the case includes wrapping the flexible film around the rigid frame. This limitation is similar to that of canceled claim 36. Claim 83 recites that the rigid frame forms end portions of the case. This limitation is similar to that of canceled claim 37. Claim 84 recites that the frame includes a spanning member for holding the end portions of the frame in fixed positions with respect to one another. This limitation is similar to that of canceled claim 38. Claim 85 recites that the frame includes a nose piece portion for positioning eyewear within the case. This limitation is similar to that of canceled claim 39. Claim 86 recites that the product card includes an aperture configured to allow the product card to be hung for display. This limitation is similar to that of canceled claim 40. Claim 87 recites that the product card is configured to receive printing. This limitation recited is similar to that of canceled claim 41. Claim 88 recites that a portion of the removable product card overlaps a portion of the closable portion of the case when the closable portion of the case is in an open position. Claim 89 recites that the removable product card remains coupled to the closable portion of the case when the closable portion of the case is in an open position. Support for the features of claims 88 and 99 can found at least in Figure 1 of the

applicant's specification. Claims 76-89 are allowable at least because they are dependent from allowable base claim 75.

Claim 90 is a new independent claim which recites a method of assembling a display apparatus including a case, comprising: forming ends of the case with a rigid frame; forming sides of the case with a flexible film by wrapping the film around the frame; and securing a first portion of the film to the frame while allowing a second portion of the film to remain free, the second portion of the film forming a flap, the flap being closable over an opening of the case.

As explained above with respect to claim 63, neither Fireman nor Irvine, taken separately or in combination, disclose a display apparatus including a flexible film forming sides of a case and a rigid frame forming end portions of the case, as required by the applicant's claim 63. Therefore, Fireman and Irvine, do not suggest or disclose forming ends of the case with a rigid frame and forming sides of the case with a flexible film by wrapping the film around the frame, as required by applicant's claim 90. Matney does not suggest or disclose these features either. For at least this reason, claim 90 is allowable.

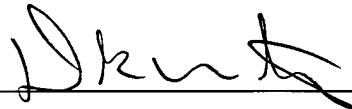
New claims 91-99 are dependent from allowable base claim 90. Claim 91 recites coupling a first portion of a fastener to a first portion of a film and coupling a second portion of the fastener to both a flap and a product card such that the fastener allows the flap to be secured in a recloseable manner over an opening of the case. These steps are similar to those of canceled claims 26 and 31. Claim 92 recites that the second portion of the fastener is coupled to an area of the product card defined by a perforation, such that the area is removed from the product card when the case is removed from the product card. These limitations are similar to those of canceled claims 30 and 31. Claim 93 recites that an area of the product card that surrounds the second portion of the fastener anchor is removed when the product card is removed from the case. Claim 94 recites that the area of the product card removed when the product card is removed from the case is defined by a perforation that surrounds the second portion of the fastener. Support for the features of claims 93 and 94 can be found at least in Figures 3A and 3B of the applicant's specification and the associated written description. Claim 95 recites that the fastener comprises a snap. This limitation is similar to that of in canceled claim 33. Claim 96 recites that the first portion of the film is secured to the frame with pins. Support for this feature can be found at least at page 4, lines 19-22 of the applicant's specification. New dependent claim 97 recites that the frame further comprises a spanning member for holding end portions of the

frame in a fixed position with respect to one another. This limitation is similar to that of canceled claim 38. Claim 98 recites that a portion of the product card overlaps the flap when the flap is in an open position. Claim 99 recites that the product card remains coupled to the flap when the flap is in an open position. Support for the features of claims 98 and 99 can found at least in Figure 1 of the applicant's specification. Claims 91-99 are allowable at least because they are dependent from an allowable base claim 90.

In view of the above, the applicant respectfully submits that all of the pending claims are now allowable. Allowance at an early date would be greatly appreciated. Should any issues remain, the examiner is encouraged to telephone the undersigned at (408) 293-9000 to discuss the same so that any outstanding issues may be expeditiously resolved.

Law Offices of Derek J. Westberg

Dated: Aug. 4, 2005

A handwritten signature in black ink, appearing to read 'D. Westberg', is written over a horizontal line.

Derek J. WESTBERG (Reg. No. 40,872)